

## **INFORMATION SHEET**

### **GUIDELINES FOR ARBITRATORS**

#### **INTRODUCTION:**

The guidelines contained herein have been approved by the Butte County Superior Court for use by arbitrators in proceedings ordered by the Court or pursuant to stipulation. The guidelines are necessarily general in nature.

#### **PURPOSE:**

The guidelines are to be used in assisting the arbitrator in discharging the arbitrator's duties. For specific questions, you should refer to the California Code of Civil Procedure (CCP) § 1141, the California Rules of Court (CRC) §§ 1600 through 1617, and the Local Rules (LR) of the Butte County Superior Court.

#### **POWERS / RIGHTS:**

The arbitrator can hold a hearing within specific time limits [CRC § 1611]. The arbitrator may agree to a stipulated continuance also within strict time limits [CRC § 1607]. The arbitrator may administer oaths or affirmations, take adjournments, accept deposition testimony, accept other evidence pursuant to CRC §1613, examine tangible evidence, receive into evidence expert reports, rule on admissibility and relevancy of evidence, decide law and facts of the case and make an award accordingly and award costs not to exceed statutory costs [CRC § 1614].

The arbitrator is entitled to \$150.00 compensation for each case. On a verified ex parte application showing good cause, an arbitrator may receive more than \$150.00 compensation for each case if there was unusual difficulty or duration. Consideration will be given to the number of continuances, notices, research, and issues decided. No compensation will be allowed if the matter was only set for hearing. Partial compensation may be allowed if the case is settled [CRC § 1608].

#### **OBLIGATIONS:**

An arbitrator must disqualify himself or herself and notify the administrator if there is a conflict of interest [CRC § 1606]. If there is no conflict of interest, the arbitrator must arrange or set the hearing for a date certain within 60 days from the date of the assignment of the case to the arbitrator [CRC § 1611]. If the hearing date is continued, it shall not be continued to a date later than 90 days after assignment of case to the arbitrator except by order of the Court on motion of a party [CRC § 1607(c)]. In the event there are any difficulties in meeting the above obligations, the arbitrator shall advise the Court in writing. Within 15 days after appointment of the arbitrator, the arbitrator shall notify each party and the administrator in writing of the date, time, and place of the arbitration hearing [CRC § 1605(a)].

The arbitrator's notice to the parties and the administrator of the hearing time, date, and place shall be given at least 30 days prior to the date set for the arbitration hearing [CRC § 1611].

After conducting the hearing, the arbitrator shall decide all issues properly raised by the pleadings including damages and costs, if appropriate, specifying for and against whom judgment is found using the full names of the parties as set forth in the pleadings [CRC § 1614]. The arbitrator shall file a written award within ten (10) days after conclusion of the arbitration hearing with proof of service on each party to the arbitration and to the administrator [CRC § 1615(b)]. The arbitrator may apply for and receive an extension of time from the Court to allow an additional 20 days for the filing and service of the award if the case was of unusual length or complexity [CRC § 1615(b)]. At the time the award is filed, the arbitrator may file a voucher requesting payment of the arbitrator's fees. Failure to file a voucher with the filing of the award constitutes a waiver of the arbitrator's compensation.

If the case assigned to the arbitrator is settled, the parties shall notify the arbitrator and the arbitration administrator of the settlement. Before any case is heard and decided by an arbitrator, the arbitrator must file an oath with the arbitration administrator's office to justly try all matters submitted to the arbitrator.

### **PROCEDURE:**

Upon appointment as an arbitrator, the arbitrator shall communicate with the parties or the parties' counsel and arrange for the setting of an arbitration hearing. Only procedural matters may be discussed with the parties' counsel [CRC § 1609]. The arbitrator then serves a written notice of the date, time, and place of the arbitration hearing on all parties or their counsel and on the arbitration administrator in accordance with the obligations set forth above. The arbitrator shall conduct the hearing, giving each party and their counsel an opportunity to present any and all relevant evidence subject to CRC § 1613. At the conclusion of the hearing, the arbitrator shall make its decision in accordance with the obligations above.

The arbitrator is not required to make findings of fact or conclusions of law. Any settlement offers are not to be disclosed to the arbitrator [CRC § 1609]. If a party defaults, sufficient evidence must be taken to justify any award made by the arbitrator [CRC § 1610(b)]. Stenographers, court reporters, and recording devices are not permitted at the hearing [CRC § 1614(b)]. Law and motion matters are reserved to the Court [CRC§ 1614]. Court files are not permitted to be removed from the Court.

### **EVIDENCE:**

All evidence is to be taken in the presence of the arbitrator and all parties except where a party has waived the right to be present or is absent after due notice for the hearing [CRC § 1613(a)].

The rules of evidence governing civil actions apply except:

1. The arbitrator shall receive into evidence, if copies have been delivered to all opposing parties at least 20 days prior to the hearing, written reports of any expert witness, medical bills and records, documentary evidence of loss of income, property damage repair bills or estimates, and relevant police reports [CRC § 1613(b)].

a. Witnesses may be subpoenaed for cross-examination. Repair estimates shall be accompanied by a statement indicating if the property was repaired. The arbitrator shall not consider a police report opinion as to fault.

2. Written statements of witnesses shall be received into evidence if: (1) they are made by affidavit or declaration, (2) copies have been delivered to all opposing parties at least 20 days prior to the hearing, and (3) no party has timely made written demand that the witness be produced in person at the hearing. Matters in the statement which are otherwise inadmissible if the witness were testifying in person are still inadmissible.

3. Deposition transcripts shall be received into evidence but are subject to objections under CCP § 2016(e) if (1) deposition was properly taken, and (2) notice of intention to offer the deposition was delivered to all opposing parties at least 20 days prior to the hearing.

Delivery of a document may be by mail pursuant to CCP § 1013 or by manual delivery. If mailed, the time for delivery of documents, notices, and demands is increased by five (5) days.

Subpoenas are available to compel attendance of witnesses. Failure to attend pursuant to lawful subpoena may be grounds for an adjournment or continuance of the hearing [CRC § 1613(c)].

### **CONTINUANCES:**

Continuances may be accomplished by stipulation, but in no event may an arbitration hearing be continued to a date later than 90 days after assignment of the case to the arbitrator, except by order of the Court [CRC § 1607(c)].

### **DECISION:**

The award of the arbitrator must be filed in the format provided by the Court within ten (10) days after the conclusion of the arbitration hearing. At the time of the filing of the award, the arbitrator is to serve on all parties or their counsel a copy of the arbitration award and file with the award a proof of service of the award on each party.

### **EFFECT OF DECISION:**

Any party, within 30 days after the arbitration award is filed, may request a trial de novo. The 30 days time period may not be extended [CRC § 1616].

### **ARBITRATOR'S COMPENSATION:**

For Court-ordered arbitration, the arbitrator is entitled to \$150.00 per case or \$150.00 per day, whichever is greater, as compensation for the arbitrator's services [CCP § 1141.18]. A compensation statement voucher provided by the arbitration administrator's office shall be submitted to the arbitration administrator upon the filing of the award and shall set forth the title and number of the cause arbitrated, the date of the arbitration hearing, and the date of filing of the award or notice of settlement. Failure to timely file the voucher constitutes a waiver of compensation.